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EXCEPTION

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HE ARIZONA CORPORATION COMMISSION

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DOCUMENT CONTROL

JIM IRVIN  
Commissioner-Chairman  
TONY WEST  
Commissioner  
CARL J. KUNASEK  
Commissioner

IN THE MATTER OF THE COMPETITION ) DOCKET NO. RE-00000C-94-0165  
IN THE PROVISION OF ELECTRIC )  
SERVICES THROUGHOUT THE )  
STATE OF ARIZONA )  
)

**AEPCO EXCEPTIONS TO  
PROPOSED ORDER**

AEPCO submits these exceptions to the Proposed Order and the Rules accompanying it which were issued February 5, 1999.

### Introduction

AEPCO appreciates the efforts of the Hearing Division reflected in the Proposed Order and the redrafted Rules which are its Appendix A. The Comments of AEPCO filed January 29, 1999 are attached – some of the recommended changes were accepted but several others were not.

In particular, AEPCO would ask the Commission carefully to consider the policy matters raised in relation to Rules R14-2-1610, 1616, 1617 and 1618 at pages 4-5 and Exhibit B of the attached comments. Substantial rewrite and/or deletion of these Rules as recommended will reduce costs both to the competitive and Standard Offer customer, avoid forced divestiture and move this effort toward what it is supposed to be – a market based, deregulation initiative, not a central government "command and control" regime.

The remainder of these exceptions will be focused on three areas which are very critical to AEPCO and its member distribution cooperatives. Suggested amendment language as to these matters is attached as Exhibit A.

1 **R14-2-1606. Services Required to be Made Available**

2 Although the Proposed Order makes several changes to paragraph B of R14-2-1606,  
3 it still requires the purchase of Standard Offer power after January 1, 2001 in the "open market."  
4 This unnecessarily forces a breach of the requirements agreements between AEPCO and its member  
5 distribution cooperatives. These agreements continue until the year 2020.  
6

7 Over the past almost 40 years, this Commission has approved several hundred million  
8 dollars in public and private financing for generation and transmission facilities to bring power to the  
9 rural areas of the state. The requirements agreements are the security for continued maintenance of  
10 these facilities, required future additions and repayment of these loans.  
11

12 For three years, AEPCO, its members and their customer owners have been working  
13 on a restructuring plan. Subject to various approvals including this Commission's, it will allow  
14 customer choice in the members' service territories and preserve the requirements agreements for  
15 Standard Offer purchases. In its current form, R14-2-16065.B renders that impossible; thus forcing  
16 default on AEPCO's mortgage and the members' mortgages as well.  
17

18 AEPCO strongly urges two solutions as set forth in Exhibit A. First, simply delete  
19 paragraph B because it's not needed. After January 1, 2001, the market will be fully competitive. If  
20 a utility's Standard Offer power is not competitive, consumers won't buy it. Also, Standard Offer  
21 rates are fully regulated. Any increase in Standard Offer rates must be fully justified before and  
22 approved by this Commission.

23 Second, and alternatively, limit the "open market" requirement to "investor owned"  
24 UDCs. Cooperatives are unique in this regard. As discussed, this exemption will avoid a breach of  
25 the requirements agreement, avoid a forced default on mortgages and help to assure that future  
26 financing is available for rural power and transmission needs.  
27

1 **R14-2-1616. Separation of Monopoly and Competitive Services**

2 The Proposed Order has improved this Rule from its current form. But AEPCO  
3 would ask the Commission either (1) to delete it or (2) revise its paragraph C to clarify certain  
4 cooperative related issues.  
5

6 This concept of barring Affected Utilities from providing otherwise lawful services  
7 was first sprung in late June of last year and by early August was part of the Rules – all without  
8 hearings as to its necessity, wisdom or impact. It is a singularly bad idea. First, it denies both to the  
9 competitive and Standard Offer customer the economies and efficiencies of joint operation. Second,  
10 with particular reference to distribution related services, it will impede, not enhance, competition.  
11 Affected Utilities are best positioned, for example, to provide meter reading services to a residential  
12 customer who may want to buy power from someone else. This Rule prohibits that. AEPCO knows  
13 of no other state which has done that. At a minimum, the Rule should be stricken for now pending  
14 further study.  
15

16 If the Commission wishes, nonetheless, to retain it, AEPCO urges two changes<sup>1</sup> to  
17 paragraph C:

- 18 • The distribution cooperative exemption/limitation in the first sentence should not  
19 be to the service territory "it had as of the effective date of these rules." Rather, it  
20 should apply to its service territory. Otherwise, needless confusion and  
21 impediments to competition arise as the distribution territory grows by  
22 Commission Order, agreement or law.
- 23 • The final sentence of paragraph C has been added to clarify that AEPCO is  
24 subject to the same limitation as its distribution cooperatives, i.e. it may only offer  
25 Competitive Services within its member service territories. That's fine. The  
26 sentence, however, is confusing. For example, AEPCO is not a UDC like its  
27 member distribution cooperatives and doesn't have a service territory. Therefore,  
it can't be "subject to the same limitations." The new sentence suggested in  
Exhibit A preserves the intent of the sentence but avoids the confusion.

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<sup>1</sup> To harmonize this Rule with R14-2-1605, the phrase "Except as provided in R14-2-1616," should be added at the beginning of R14-2-1605 and the changes to R14-2-1603.A suggested in AEPCO's January 29 comments should be made.

1 **R14-2-1601. Definitions**


2 Finally, Exhibit A suggests changes to the definitions of "Provider of Last Resort"  
3 and "Standard Offer Service." The transfer of the language concerning annual usage of 100,000 kWh  
4 or less between the two definitions effectuates Hearing Division intent as stated at pages 8 and 21 of  
5 the Concise Explanatory Statement. The change makes it clear that Standard Offer Service may be  
6 offered to all customers but "provider of last resort" power must be available on a moment's notice  
7 only to small residential and commercial customers as required by HB 2663.  
8

9 **Conclusion**

10 AEPCO strongly urges the Commission to modify the Rules as set forth in Exhibit A  
11 and seriously to consider the other changes recommended in its January 29 comments.  
12

13 RESPECTFULLY SUBMITTED this 16th day of February, 1999.

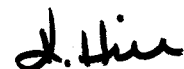
14 GALLAGHER & KENNEDY, P.A.

15  
16  
17 By   
18 Michael M. Grant  
19 2600 North Central Avenue  
20 Phoenix, Arizona 85004-3020  
21 Attorneys for Arizona Electric Power  
22 Cooperative, Inc.

23 Original and ten (10) copies of the foregoing  
24 document filed this 16<sup>th</sup> day of February, 1999, with:

25 Docket Control  
26 Arizona Corporation Commission  
27 1200 West Washington  
Phoenix, Arizona 85007

28 Copy of the foregoing document mailed this 16<sup>th</sup>  
29 day of February, 1999, to all parties of record.

30 

#684378 v1 - Exceptions

# Exhibit A

#### **R14-2-1606. Services Required To Be Made Available**

Delete Paragraph B or revise it to read:

B. After January 1, 2001, power purchased by a an investor owned Utility Distribution Company to provide Standard Offer Service shall be acquired through the open market.

#### **R14-2-1616. Separation of Monopoly and Competitive Services**

Delete this Rule or revise it to read:

A. All competitive generation assets and competitive services shall be separated from an Affected Utility prior to January 1, 2001. Such separation shall either be to an unaffiliated party or to a separate corporate affiliate or affiliates.

B. After January 1, 2001, an Affected Utility or Utility Distribution Company shall not provide Competitive Services as defined in R14-2-1601(6).

C. An Electric Distribution Cooperative is not subject to the provisions of R14-2-1616 unless it offers competitive electric services outside of the its service territory. it had as of the effective date of these rules. A Generation Cooperatives shall be subject to the same limitations that its member Distribution Cooperatives are subject to. A Generation and Transmission Cooperative may assist Electric Distribution Cooperatives in providing Competitive Services within their service territories.

#### **R14-2-1601. Definitions**

31. "Provider of Last Resort" means a provider of Standard Offer Service to customers within the provider's certificated area whose annual usage is 100,000 kWh or less who are not buying competitive services.

34. "Standard Offer Service" means Bundled Service offered by the Affected Utility or Utility Distribution Company to all consumers in the Affected Utility's or Utility Distribution Company's service territory whose annual usage is 100,000 kWh or less at regulated rates, including metering, meter reading, billing, collection services, demand side management services including but not limited to time-of-use, and consumer information services. All components of Standard Offer Service shall be deemed noncompetitive as long as those components are provided in a bundled transaction pursuant to R14-2-1606(A).

#### **EXHIBIT A**

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2  
3 JIM IRVIN

Commissioner-Chairman

4 TONY WEST

Commissioner

5 CARL J. KUNASEK

Commissioner

6  
7 IN THE MATTER OF THE COMPETITION )  
8 IN THE PROVISION OF ELECTRIC )  
9 SERVICES THROUGHOUT THE )  
STATE OF ARIZONA )

DOCKET NO. RE-00000C-94-0165

**ARIZONA ELECTRIC POWER  
COOPERATIVE, INC.'S  
RECOMMENDED RULES  
CHANGES**

10  
11 The Arizona Electric Power Cooperative, Inc. ("AEPKO") submits these  
12 recommendations for changes to the Retail Electric Competition Rules.

13 These recommendations are divided into two sections. Major policy matters will be  
14 discussed in this portion of the filing. Attached as Exhibit A is a list of more technical but as  
15 important requested Rules' modifications and Exhibit B is a rewrite of R14-2-1610. Specific  
16 language deletions and additions are included unless the recommendation is to add or delete bulk  
17 material such as sentences, an entire paragraph, section or Rule.

18  
19 AEPKO appreciates this opportunity to provide input on the Rules' text. These  
20 comments are guided by the following principles:

- 21
- 22 • This is supposed to be a deregulation effort. As it stands now, the integrated,  
23 double-spaced version of the Rules runs 97 pages. Many of the following  
24 recommendations attempt to move this process back to what the Commission  
25 wants – a market based, consumer choice system, not government control.
  - 26 • Several of the Rules unfairly and discriminatorily punish and hamstring Affected  
27 Utilities. The competitive market is not strengthened by weakening entities that  
have served Arizona well for decades.
  - The Rules contain many expensive, unnecessary mandates that will increase, not  
reduce, costs to all consumers – the antithesis of what this effort is about.

- Finally, the Rules exceed the Commission's jurisdiction, conflict in several respects with HB 2663 and violate Federal law. In their present form, the Rules will impede, not advance, the move to competition.

The recommendations offered in this filing represent significant improvements to the Rules on each of these points.

**R14-2-1606.A. Services Required to be Made Available**

**Recommendation:** Rewrite R14-2-1606.A as follows:

- A. Each Affected Utility and Utility Distribution Company shall make available to all consumers whose annual usage is 100,000 kWh or less in its service area, ~~as defined on the date indicated in R14-2-1602~~, Standard Offer bundled generation, transmission, ancillary, distribution, and other necessary services at regulated rates. ~~After January 1, 2001, Standard Offer service shall be provided by Utility Distribution Companies who shall also act as Providers of Last Resort.~~

**Issue:** The provider of last resort requirement in Paragraph A should be conformed to A.R.S. §40-202.B.5 (Section 23 of HB 2663) and limited to consumers whose annual usage is 100,000 kWh or less. Including large commercial and industrial consumers in the requirement increases Standard Offer costs and makes planning a nightmare. It also provides "gaming" opportunities between Standard Offer and competitive service for the large, sophisticated consumer as prices change seasonally and in response to market forces. Deletion of the final sentence removes the forced divestiture element of the current Rules.

**R14-2-1606.B**

**Recommendation:** Delete R14-2-1606.B and re-letter the remaining paragraphs.

**Issue:** R14-2-1606.B specifies that Standard Offer power be obtained by competitive bid and that the resulting contract contain a ratchet provision. The provision is unnecessary because Standard Offer



1 must compete with competitive offers and therefore utilities will be incented by the market to seek  
2 lowest cost Standard Offer sources and mixes. This provision is also expensive and unreasonably  
3 inflexible. RFP and response mechanisms are costly and frequently do not deliver the best deal. It  
4 impermissibly interferes with utility management and is inconsistent with deregulation goals. It  
5 exceeds Commission jurisdiction (HB 2663 contains no such authorization). Finally, as to AEPCO  
6 and its member distribution cooperatives, it breaches the all-requirements agreements, frustrates the  
7 purpose of the RE Act and sets up an unavoidable conflict with federal law.

9 **R14-2-1609 and R14-2-1608.A. Solar Portfolio Standard and System Benefits Charges**

10 **Recommendation:** Delete R14-2-1609 in its entirety and renumber the remaining sections  
11 accordingly. Also, strike the final two sentences concerning the solar water heater rebate program in  
12 R14-2-1608.A.

13 **Issue:** The Solar Portfolio Standard is (1) enormously expensive, (2) mandates construction of  
14 capacity when none is needed, (3) injects government control into what is supposed to be a  
15 deregulated, market based system and (4) requires construction of the least efficient solar application  
16 (central station v. smaller, disseminated applications). This and the solar water heater rebate program  
17 in R14-2-1608.A exceed the Commission's jurisdiction and impermissibly interfere with internal  
18 utility management. Based on a strategic plan focusing on least cost principles, AEPCO's  
19 compliance costs for the Solar Portfolio Standard are currently estimated to be \$41 million in  
20 additional costs in cumulative total 1999 net present value dollars. If the market does not buy these  
21 resources, the Rule will have created additional stranded cost. There is a place for solar energy  
22 resources and, in many circumstances, they are efficient, least cost choices. This Rule's blanket  
23 mandate, however, is expensive, inefficient and interferes with consumer choice.<sup>1</sup>

26 ///

27  

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<sup>1</sup> A companion reference to the Solar Electric Fund in R14-2-1601.37 should also be deleted (Exhibit A, page 1).

1 **R14-2-1616 and R14-2-1617. Separation of Monopoly and Competitive Services**  
2 **and Affiliate Transactions**

3 **Recommendation:** Delete all of R14-2-1616.<sup>2</sup> Also, delete all of R14-2-1617, re-title it as **Cross-**  
4 **Subsidization Prohibited** and substitute the following:

5 Competitive services offered by an Affected Utility, Utility Distribution  
6 Company or their affiliates, if any, shall not be subsidized by any rate or  
7 charge for any Standard Offer service.

8 **Issue:** These Rules force divestiture, unreasonably deny both to the competitive and Standard Offer  
9 customer the economies and efficiencies of joint operation, unfairly punish Arizona's Affected  
10 Utilities and are the best examples of a central government "command and control" regimen in what  
11 is supposed to be a market based, deregulation initiative. They are also solutions in search of  
12 problems. There has been no showing that market power is an Arizona problem – certainly not  
13 among its many customer owned, member run cooperatives where distribution is already separate  
14 from generation and transmission. Finally, these Rules were simply sprung upon the parties last  
15 summer with five days of reaction time and no hearing opportunity allowed. Parties should at least  
16 be given a reasonable, meaningful chance to offer evidence and comment on them. As the  
17 Commission has done in its Competitive Telecommunications Rules (R14-2-1109.C), it is sufficient  
18 simply to prohibit cross subsidies between services.  
19  
20

21 **R14-2-1618. Disclosure of Information**

22 **Recommendation:** Delete R14-2-1618.

23 **Issue:** As paragraph A of this Rule affirmatively reflects, the tracking mechanism necessary to  
24 assure accurate information disclosure does not currently exist. Until it does, this Rule should be  
25 deleted.  
26  
27

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<sup>2</sup> Companion changes to R14-2-1603.A and 2-1605 are recommended at pages 2-3 and 4 of Exhibit A.

1 **R14-2-1610. Transmission and Distribution Access**

2 **Recommendation.** Suggested revisions to R14-2-1610 are attached as Exhibit B.

3 **Issue:** As discussed in last week's comments, this Rule sets up many unnecessary jurisdictional  
4 conflicts with FERC – conflicts which the Commission recognized in its recent Order staying the  
5 Rules.<sup>3</sup> The suggested modifications avoid these conflicts:

- 6 • Transmission rights and rates are FERC jurisdictional and based upon a  
7 substantial body of federal law.
- 8 • To the extent that the Commission wants to establish state jurisdiction over  
9 portions of the system, it must first seek a FERC classification of the wires as  
10 transmission or distribution on a line-by-line, system-by-system basis.
- 11 • FERC holds exclusive jurisdiction over transmission tariffs and unbundled  
12 pricing, whether at retail or wholesale.
- 13 • Finally, must-run transactions and services are also FERC jurisdictional  
14 matters.

15 The attached recommendations remove these conflicts and will allow retail competition to move  
16 forward. If the Rule is left as it is, several hearings and FERC filings will be necessary – a process  
17 which will take at least 12-18 months.

18 **Conclusion**

19 AEPCO appreciates this opportunity to provide comments on the Rules and requests  
20 that the Hearing Officer modify the Rules as recommended herein.

21 **RESPECTFULLY SUBMITTED** this 29th day of January, 1999.

22 **GALLAGHER & KENNEDY, P.A.**

23  
24 By Michael M. Grant  
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26 2600 North Central Avenue  
27 Phoenix, Arizona 85004-3020  
Attorneys for Arizona Electric Power  
Cooperative, Inc.

<sup>3</sup> Last week's filing and all prior comments on and Applications for Rehearing in relation to the Rules are incorporated herein.

1 Original and ten (10) copies of the foregoing document  
2 filed this ~~27~~ day of January, 1999, with:

3 Docket Control  
4 Arizona Corporation Commission  
5 1200 West Washington  
6 Phoenix, Arizona 85007

7 Copy of the foregoing document  
8 mailed this ~~27~~ day of January, 1999, to  
9 all parties of record.

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12 #679237 v1 - Recommended Rules Changes  
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## ADDITIONAL RULES' CHANGE RECOMMENDATIONS

### R14-2-1601

R14-2-1601.37. This definition of "Solar Electric Fund" is tied to the Solar Resource Portfolio and should be stricken.

R14-2-1601.40. This definition of "System Benefits" should be modified to include fossil plant decommissioning costs. Although not as expensive as nuclear, this type of cost is still considerable and there is no reason to treat it differently. We also suggest some examples of "market transformation" costs:

40. "System Benefits" means Commission-approved utility low income, demand side management, market transformation, such as development of load profiles and multiple transaction tracking software, environmental, renewables, long-term public benefit research and development, ~~and~~ nuclear fuel disposal and nuclear and fossil power plant decommissioning programs.

### R14-2-1602

This Rule specifies tariff filing by December 31, 1997 and is obviously outdated. The existing language should be stricken. The Commission might want to consider using this Rule to establish a new start date for competition through separate Order:

The Commission will, by separate order, establish a coordinated commencement date for competitive services and other requirements established by these Rules.

### R14-2-1603

R14-2-1603.A. Consistent with the changes to the Rules recommended previously, this paragraph should be modified to remove the forced divestiture element of R14-2-1616.A:

A. Any Electric Service Provider intending to supply services described in R14-2-1605 or R14-2-1606, other than services subject to federal jurisdiction, shall obtain a Certificate of Convenience and Necessity from the Commission pursuant to this Article. A Certificate is not required to offer information services, billing and collection services, or self-aggregation. However, aggregators as defined in R14-2-1601 are required to obtain a Certificate of Convenience and Necessity and Self-Aggregators are required to negotiate a Service Acquisition Agreement consistent with subsection G(6). An Affected Utility need not apply for a Certificate of Convenience and Necessity to continue to provide electric service, ~~in its service area during the transition period set forth in R14-2-1604. An Affected Utility providing distribution and Standard Offer service after January 1, 2001 need not apply for a Certificate of Convenience and Necessity. All other Affected Utility affiliates created in compliance with R14-2-1616(A) shall be required to apply for appropriate Certificates of Convenience and Necessity.~~

#### **R14-2-1604**

**Various Dates.** Throughout this Rule and elsewhere, various dates are mentioned such as January 1, 1999, which obviously are now not feasible or possible. Many of them may be stricken or reference made to the separate Commission order described in the recommended change to R14-2-1602.

**R14-2-1604.A.3.** This paragraph should be modified, consistent with R14-2-1613.K.6, to clarify that large consumer loads must be metered, not load profiled:

3. Affected Utilities shall notify customers eligible under this subsection of the terms of the subsection no later than October 31, 1998. Metering for eligible customers shall be in accordance with R14-201613.K.6.

R14-2-1604.C. The benefits report date of September 15, 1998 has passed and this provision should be deleted.

R14-2-1604.E. This is a companion, preference provision to the Solar Resource Portfolio standard and should be stricken.

**R14-2-1605**

As a companion to deletion of forced divestiture and to clarify that Affected Utilities may offer competitive services, the following new sentence should be added at the beginning of this Rule:

An Affected Utility may provide competitive services in its service territory.

**R14-2-1606**

R14-2-1606.F. To preserve appropriate jurisdictional allocations between the Commission and FERC but also to accomplish the desired open access, amend this provision as follows:

- F. The Affected Utilities must provide transmission, distribution and ancillary services according to the following guidelines:
  1. Services must be provided consistent with applicable tariffs filed with the Federal Energy Regulatory Commission or the Southwest Regional Transmission Association in accordance with Orders 888 and 889.

2. Unless otherwise required by federal regulation, Affected Utilities must accept power and energy delivered to their ~~transmission~~ distribution systems by others and offer ~~transmission~~ distribution and related services comparable to services they provide to themselves.

R14-2-1606.G.1. For many customers, demand data will not be available. Revise to read as follows:

1. Upon written authorization by the customer, a Load-Serving Entity shall release in a timely and useful manner that customer's demand and energy data for the most recent 12-month period, if available, to a customer-specified Electric Service Provider.

**R14-2-1607**

R14-2-1607.D. Stranded cost filings have been made so the date reference to "August 21, 1998" should be stricken.

**R14-2-1613**

R14-2-1613.K.8. This provision allows meter ownership by the customer. This can result in several problems including servicing, energy theft and billing problems. We recommend the following change:

8. Meter ownership ~~will~~ shall be limited to the Affected Utility, Utility Distribution Company, and the Electric Service Provider or ~~their~~ its representative, ~~or the customer, who obtains the meter from the Affected Utility, or Utility Distribution Company or an Electric Service Provider.~~



R14-2-1613.K.13, 14 and 15. These provisions should be deleted because they impermissibly delegate to the Director of Utilities authority to promulgate Rules which should instead be commented on and adopted pursuant to the APA.

R14-2-1613.L. This provision should be deleted. The Working Group on System Reliability and Safety was first formed in response to the major western blackout in 1996 and has completed that study assignment. The provision in R14-2-1613.M concerning compliance with WSCC and Reliability Council Standards is sufficient for reliability issues. Transmission related issues may now be addressed by the AISA so the Working Group is not needed nor was it intended for that purpose.

**R14-2-1614**

The reports outlined in this Rule are very burdensome and will increase costs, regulatory burdens and responsibilities. We suggest that the need for this data be re-evaluated. At a minimum, reporting should be reduced to an annual, not semi-annual basis:

B. Reporting Schedule

~~1. For the period through December 31, 2003, semi-annual reports shall be due on April 15 (covering the previous period of July through December) and October 15 (covering the previous period of January through June). The 1st such report shall cover the period January 1 through June 30, 1999.~~

~~2. For the period after December 31, 2003, a~~Annual reports shall be due on April 15 (covering the previous period of January through December). The 1st such report shall cover the period January 1 through December 31, 2004 2000.

**R14-2-1610. Transmission and Distribution Access**

- A. The Affected Utilities shall provide non-discriminatory open access to ~~transmission and~~ distribution facilities to serve all customers. No distribution preference or priority shall be given to any ~~distribution~~ customer based on whether the customer is purchasing power under the Affected Utilities' Standard Offer or in the competitive market. ~~Any transmission capacity that is reserved for use by the retail customers of the Affected Utility's Utility Distribution Company shall be allocated among Standard Offer customers and competitive market customers on a pro-rata basis.~~
- B. The Commission supports the development of an Independent System Operator (ISO) or, absent an Independent System Operator, an Independent Scheduling Administrator (ISA).
- C. The Commission believes that an Independent Scheduling Administrator is necessary in order to provide non-discriminatory retail access and to facilitate a robust and efficient electricity market. Therefore, those Affected Utilities that own or operate Arizona transmission facilities shall file with the Federal Energy Regulatory Commission ~~by October 31, 1998~~ for approval of an Independent Scheduling Administrator, ~~having the following characteristics:~~
1. ~~The Independent Scheduling Administrator shall calculate Available Transmission Capacity (ATC) for Arizona transmission facilities that belong to the Affected Utilities or other Independent Scheduling Administrator participants, and shall develop and operate an overarching statewide OASIS.~~
  2. ~~The Independent Scheduling Administrator shall implement and oversee the non-discriminatory application of protocols to ensure statewide consistency for transmission access. These protocols shall include, but are not limited to, protocols~~

~~for determining transmission system transfer capabilities, committed uses of the transmission system, available transfer capabilities, and Must Run Generating Units.~~

~~3. The Independent Scheduling Administrator shall provide dispute resolution processes that enable market participants to expeditiously resolve claims of discriminatory treatment in the reservation, scheduling, use and curtailment of transmission services.~~

~~4. All requests (wholesale, Standard Offer retail, and competitive retail) for reservation and scheduling of the use of Arizona transmission facilities that belong to the Affected Utilities or other Independent Scheduling Administrator participants shall be made to, or through, the Independent Scheduling Administrator using a single, standardized procedure.~~

~~D. The Affected Utilities that own or operate Arizona transmission facilities shall file a proposed Independent Scheduling Administrator implementation plan with the Commission by September 1, 1998. The implementation plan shall address Independent Scheduling Administrator governance, incorporation, financing and staffing; the acquisition of physical facilities and staff by the Independent Scheduling Administrator; the schedule for the phased development of Independent Scheduling Administrator functionality; contingency plans to ensure that critical functionality is in place by January 1, 1999; and any other significant issues related to the timely and successful implementation of the Independent Scheduling Administrator.~~

**E.D.** Each of the Affected Utilities shall make good faith efforts to develop a regional, multi-state Independent System Operator, to which the Independent Scheduling Administrator should

~~transfer its relevant assets and functions as the Independent System Operator becomes able to carry out these functions.~~

**F.E.** It is the intent of the Commission that prudently-incurred costs incurred by the Affected Utilities in the establishment and operation of the Independent Scheduling Administrator, and subsequently the Independent System Operator, should be recovered from customers using the transmission system, including the Affected Utilities' wholesale customers, Standard Offer retail customers, and competitive retail customers on a non-discriminatory basis through Federal Energy Regulatory Commission-regulated prices. Proposed rates for the recovery of such costs shall be filed with the Federal Energy Regulatory Commission and the Commission. In the event that the Federal Energy Regulatory Commission does not permit recovery of prudently incurred Independent Scheduling Administrator costs within 90 days of the date of making an application with the Federal Energy Regulatory Commission, the Commission may authorize Affected Utilities to recover such costs through a distribution surcharge.

~~**G.** The Commission supports the use of "Scheduling Coordinators" to provide aggregation of customers' schedules to the Independent Scheduling Administrator and the respective Control Area Operators simultaneously until the implementation of a regional Independent System Operator, at which time the schedules will be submitted to the Independent System Operator. The primary duties of Scheduling Coordinators are to:~~

- ~~1. Forecast their customers' load requirements;~~
- ~~2. Submit balanced schedules (that is, schedules for which total generation is equal to total load of the Scheduling Coordinators' customers plus appropriate transmission~~

~~losses) and North American Electric Reliability Council/Western System~~

~~Coordinating Council tags;~~

~~3. Arrange for the acquisition of the necessary transmission and ancillary services;~~

~~4. Respond to contingencies and curtailments as directed by the Control Area~~

~~Operators, Independent Scheduling Administrator or Independent System Operator;~~

~~5. Actively participate in the schedule checkout process and the settlement processes of  
the Control Area Operators, Independent Scheduling Administrator or Independent  
System Operator.~~

~~H. The Affected Utilities shall provide services from the Must-Run Generating Units to  
Standard Offer retail customers and competitive retail customers on a comparable, non-  
discriminatory basis at regulated prices. The Affected Utilities shall specify the obligations  
of the Must-Run Generating Units in appropriate contracts prior to any divestiture. Under  
auspices of the Electric System Reliability and Safety Working Group, the Affected Utilities  
shall develop statewide protocols for pricing and availability of services from Must-Run  
Generating Units with input from other stakeholders. These protocols shall be presented to  
the Commission for review and filed with the Federal Energy Regulatory Commission, if  
necessary, by October 31, 1998.~~

#690046.v1-Exhibit B